IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3129 OF 2006

Arunkumar Baheti & Anr. .. Applicants

Versus

State of Maharashtra .. Respondent

Mr.J.N.Singh & Laxman Deshmukh for applicants

Mr.P.A.Pol, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 23rd August 2006.

P.C.

. It appears that the application of all the accused for anticipatory bail is pending before the Sessions Court, Pune. It appears that the applicants advocate had started from

Aurangabad to reach Pune in time for arguing the application. The application for exemption was also made on that date. In such circumstances, it was not necessary for the learned Judge to have rejected the application for exemption from personal attendance of applicants in the absence of their Advocates. However, it was also not in the interest of justice that the application for anticipatory bail should have been rejected straight away because of the absence of their advocate. In such matters, when liberty of a persons is at stake, a more human approach is expected. Such applications are made even before this Court but the Court ensures and strikes the balance. Therefore, the order passed by the learned Sessions Judge rejecting application for anticipatory bail is unsustainable. It is accordingly set aside. Application for anticipatory bail is restored to file of the learned Sessions Judge for being disposed of in accordance with law. Needless to state that it

would be open for the learned Sessions Judge to pass appropriate orders, if the Advocate for applicants remains absent repeatedly or no reasonable cause is set out in the application for remaining present on such dates as are scheduled for hearing the application.

2. Learned Advocate for applicants makes a statement that applicants so also their Advocate would remain present before the trial court on 4th September 2006 on which date the learned Sessions Judge would take up the application and pass appropriate orders in accordance with law. Needless to state that in default of appearance it would be open for the learned Judge to pass such orders as are permissible in law without being influenced by the present order and observations therein. Applicants not to be arrested till 4th September 2006 provided they attend the police station as and when summoned. All contentions on merits are kept open.

3. At this stage, it is pointed out to me that Criminal Application No.726 of 2006 which was a joint application of all accused was placed for hearing and final disposal on 22nd August 2006, insofar as the other accused. The learned Advocate is unable to point out to me as to whether, insofar as these applicants are concerned, any orders are passed. In such circumstances, applicants in Application No.726 of 2006, who are original accused Nos. 2 and 3 would have to file fresh application if the earlier application i.e. 726 of 2006 is already disposed of. Therefore, my directions as above ought not be considered as restoring Criminal Application No.726 of 2006, if it is already disposed of. Needless to state that if it is so disposed of, applicants can file a fresh application and the protection from arrest would continue only till 4th September 2006 to enable applicants in Cri.Application No.726 of 2006 to

either file a fresh application or amend the application already filed if, the same is pending. Present application is disposed of with aforesaid directions.

(S.C.Dharmadhikari, J)